

Falmouth, Massachusetts
Transfer of Development Rights
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Zoning Bylaw
Adopted: 1984

6940. TRANSFER OF DEVELOPMENT RIGHTS.

6945. Eligibility. Any lot or lots shown on a plan endorsed by the Planning Board or duly recorded at the Registry of Deeds as of April 1, 1985 shall be eligible to apply for a Special Permit to transfer a portion or all of the development rights on said lot or lots (hereinafter called "donor lots") to a different location and different zoning district (hereinafter called "receiving district") to be included as part of a subdivision requiring approval under M.G.L., Ch. 41, the Subdivision Control Law, provided that the following requirements are met:

- 1) Each donor lot or portion thereof complies, in all respects, with the minimum requirements for obtaining a Building Permit by right or if in the opinion of the Planning Board, is potentially subdividable lot of land given minimum zoning requirements, subdivision regulations and other pertinent regulations;
- 2) The locus of the receiving district contains at least five (5) acres in an RA, RB, RC, AGA or AGB zone and ten (10) acres if an AGAA or RAA zone; and two (2) acres in a Business or LIA zone.
- 3) The owner or owners of the donor lot(s) record at the Registry of Deeds a covenant running in favor of the Town of Falmouth, prohibiting the construction or placement of any structure on said donor lot(s).
- 4) Town-owned land, approved for this purpose by a TWOTHIRDS VOTE of Town Meeting shall be available as a donor or receiving district.

6950. Donor Districts. Donor districts shall consist of:

- 1) Any contiguous parcel of land of at least five (5) acres which qualifies for or is currently assessed by the Town of Falmouth or the Commonwealth of Massachusetts under the provisions of M.G.L., Ch. 61A; and
- 2) All land within mapped recharge areas of the following coastal ponds and public drinking water supplies within the Town of Falmouth referred to in Section 5341, of the Zoning By-laws:

Great Pond	Green Pond	Bournes Pond
Eel Pond	Ashumet Well	Fresh Pond Well.

Oyster Pond	Little Pond	Childs River
Quashnet River	Hamblin Pond	

3) Town-owned land, approved for this purpose by a TWOTHIRDS VOTE of Town Meeting shall be available as a donor or receiving district.

6955. Receiving Districts. Receiving districts shall consist of all land currently zoned RB, AGB, RA, AGA, RAA, and AGAA, B3, B2, LIA, RC except that receiving districts shall not be considered to include any land within a mapped Water Resource Protection District as defined, any land within a mapped water recharge area as referred to in Section 5341, of the Zoning By-law, or any land referred to in Section 6950, of the Zoning By-laws.

Receiving districts shall be eligible to "accept" donor lots according to the schedule of Section 6960, provided that the locus of the receiving district is the subject of a subdivision plan requiring Planning Board approval under the requirements of MeGeLe, Ch. 41 and a Special Permit under the requirements of Section 6100, of the Zoning By-laws, except that Section 6121 shall not apply to plans filed under this Section. No transfer of development rights shall be approved by the Planning Board into a receiving district locus not requiring subdivision approval.

In transferring development rights into a receiving district, the Planning Board may allow the minimum frontage, width and area standards of the total subdivision, including transferable lot rights to be reduced according to the criteria specified in Section 6120.

6960. Transferred Development Rights Credits. Lots. within donor districts shall be eligible to transfer their development rights to receiving districts only in compliance with the following schedule:

Donor Districts	Receiving Districts	Assignable Credit
RC	RB, AGB	1.4
RC	RA, AGA	1.3
RC	RAA, AGAA	1.2
RB, AGB	RB, AGB	1.3
RB, AGB	RA, AGA	1.3
RB, AGB	RAA, AGAA	1.2
RA, AGA	RA, AGA	1.3
RA, AGA	RAA, AGAA	1.2
RAA, AGAA	RAA, AGAA	1.2

Note: Fraction of lots shall not be counted.

Example: Ten (10) lots within an RC Donor District are transferred under this By-law to an RB parcel within a Receiving District. The RB parcel has suitable acreage under the provisions of Section 6100 of the Zoning By-laws for twenty (20) lots. However, the transfer of ten (10)

lots in the RC District to the RB District entitles the RB land owner to a four (4) lot bonus (10 (RC) x 1.4 (assignable credit, Section 6960) - 14). Thus, the total number of lots possible in the RB Receiving District under this Section is 34:

$$\begin{array}{r} 10 \times 1.4 = 14 \text{ from RC Donor District} \\ + 20 \text{ from RB District} \\ 34 \text{ Total Potential Lots} \end{array}$$

6961. Business or industrial zoned land may act as receiving districts where the total number of attached dwellings will be equal to the number allowed by Section 6150 and the number of units permitted by zoning in the donor district.

6965. Special Permit Granting Authority. The Special Permit Granting Authority for a Transfer of Development Rights Special Permit shall be the Planning Board. The provisions of M.G.L., Ch. 40A, Sections 9 and 11 and Section 7300 of the Falmouth Zoning By-laws shall apply to all Special Permits issued under this Section.